



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/630,383	04/10/96	FOULETTY	A-55320-2/B1

HM21/0518
FLEHR HOHBACH TEST ALBRITTON AND HERBERT
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EXAMINER
SCHWADRON, R

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 05/18/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Defective Notice of Appeal or Brief

Application No.

08/630,383

App. (s)

Pouletty et al.

Examiner

Ron Schwadron, Ph.D.

Group Art Unit

1644



☐ The Notice of Appeal filed on _____ is:

☐ not acceptable because:

☐ it was not timely filed.

☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).

☐ the appeal fee received on _____ was not timely filed.

☐ the submitted fee of \$ _____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$ _____.

☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.

☐ a Notice of Allowability, form PTO-37, was mailed by the Office on _____.

☐ The appeal brief filed on _____ is NOT acceptable for the reason(s) indicated below:

☐ The brief and/or brief fee is untimely. See 37 CFR 1.192.

☐ The statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).

☐ The submitted brief fee of \$ _____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$ _____.

The appeal in this application will be dismissed unless corrective action is taken. Extensions of time may be obtained under 37 CFR 1.136(a).

☒ The appeal in this application is DISMISSED because:

☒ The fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

☒ The brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

☒ Because of the dismissal of the appeal, this application:

☒ is abandoned because there are no allowed claims.

☐ is being returned to the examiner for final disposition because it contains allowed claims. Prosecution on the merits is CLOSED.

Please see enclosed
note regarding submission filed
under 1.12(a)(1). *OK*

RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800-1600

1. Regarding the amendment filed 3/5/98 under 37 C.F.R. section 1.129, the instant application does not qualify to file under 37 C.F.R. section 1.129 because it was filed after 6/8/95.

37 C.F.R. § 1.129 states in section (c) that:

“(c) The provisions of this section shall not be applicable to any application filed after June 8, 1995.”.

Also see M.P.E.P. section 706.07(g), Rev. 3, July 1997, pages 700-47 to 700-52, especially 700-49.

Therefore, applicant has not filed an appropriate response with regards to the Notice of appeal filed 10/7/97 as per noted in the enclosed Defective Notice of Appeal or Brief.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Tuesday through Friday from 8:30 to 6:00. The examiner can also be reached on alternative Mondays. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 180 receptionist whose telephone number is (703) 308-0196.

RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800

160v

Ron Schwadron, Ph.D.

Primary Examiner

Art Unit 1644

May 15, 1998